

MEMORANDUM

Agenda Item No. 7(A)

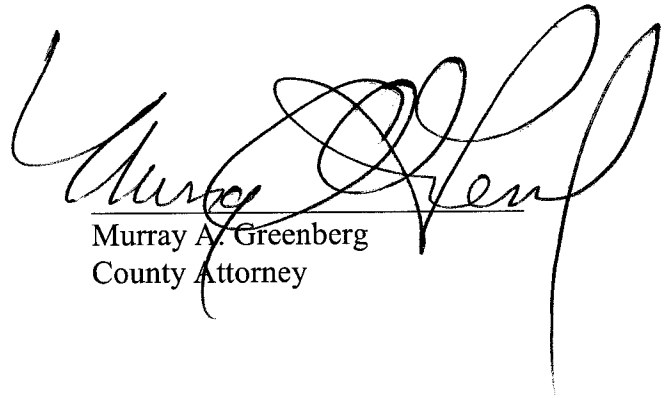
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

(Second Reading 10-18-05)
DATE: August 23, 2005

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance amending Section
21-31.2 of the Code relating
to posting alcohol warning signs

The accompanying ordinance was prepared and placed on the agenda at the request of Senator Javier D. Souto.



Murray A. Greenberg
County Attorney

MAG/jls

Memorandum

MIAMI-DADE
COUNTY

Date: October 18, 2005

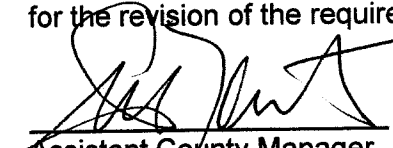
To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance amending Section 21-31.2 of the Code relating to posting alcohol warning signs

This ordinance amending Section 21-31.2 of the Code relating to posting alcohol warning signs will have no fiscal impact to Miami-Dade County.

The Miami-Dade Police Department does not expect the levels of enforcement to change. Once this ordinance is approved, the owner(s) of the affected establishments will be responsible for the revision of the required posted signs.


Assistant County Manager

fiscal07805



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: October 18, 2005

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 7(A)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor

Agenda Item No. 7(A)

Veto _____

10-18-05

Override _____

ORDINANCE NO. _____

ORDINANCE AMENDING THE PENALTY PROVISION OF SECTION 21-31.2 OF THE MIAMI-DADE COUNTY CODE WHICH REQUIRES CERTAIN STORES TO POST ALCOHOL WARNING SIGNS AND PROHIBITS THE DRINKING OF ALCOHOLIC BEVERAGES OR POSSESSION OF OPEN CONTAINERS WITHIN 100 FEET OF LOCATIONS INCLUDING AMONG OTHER THINGS PACKAGE STORES AND RELIGIOUS PROPERTIES; PROVIDING, SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, the current penalty provisions provide for penalties for a first offence of \$50 and a second offense of \$100 and the Courts have indicated that they will not enforce such penalties because they believe they are civil infractions; and

WHEREAS, Section 21-31.3 of the Miami-Dade County Code has a similar sign provision with a penalty of \$500 or sixty days in jail; and

WHEREAS, it is important that the provisions for drinking in public have a criminal penalty so that such conduct remains an arrestable offense so that it can be enforced by the police department,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

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Section 1. Section 21-31.2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

**Sec. 21-31.2. Sec. 21-31.2. Consumption or possession
of alcohol in open containers near store
selling alcoholic beverages, religious
property, and other locations. Signs
required in such stores.**

* * *

(d) *Penalties.* ~~[[A first violation of this section will be punishable by a fine of fifty dollars (\$50.00); a second violation of this ordinance will be punishable by a fine of one hundred dollars (\$100.00); the third and each additional violation of this section will be punishable by a fine not less than one hundred fifty dollars (\$150.00) or greater than three hundred dollars (\$300.00), or by imprisonment not less than ten (10) days or greater than thirty (30) days in jail, or both.]]>>Any person violating any of the provisions of this section shall, upon conviction of such offense, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the County Jail, or both, in the discretion of the court.<<~~

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.


Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:


TWL

Prepared by:

Thomas W. Logue

Sponsored by Sen. Javier D. Souto